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# Chapter 2

## Guidelines for a Successful Public Participation Program

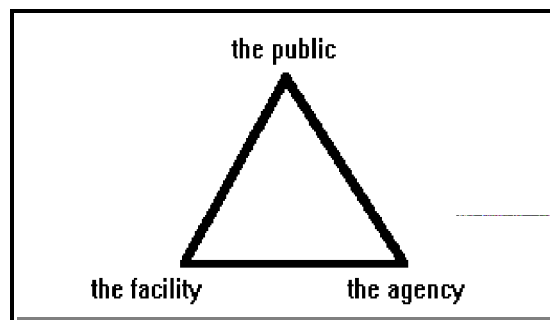
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### What is Public Participation?

The RCRA permitting process brings government, private industry, public interest groups, and citizens together to make important decisions about hazardous waste management facilities. These groups and individuals have a stake in the facility under consideration, its operations, corrective action, or changes in its design or administration. As “stakeholders” they will communicate and interact throughout the permitting process and possibly throughout the life of the facility.

Public participation plays an integral role in the RCRA permitting process. Officially speaking, EPA uses the term “public participation” to denote the activities where permitting agencies and permittees encourage public input and feedback, conduct a dialogue with the public, provide access to decision-makers, assimilate public viewpoints and preferences, and demonstrate that those viewpoints and preferences have been considered by the decision-makers (see 40 CFR 25.3(b)). “The public” in this case refers not only to private citizens, but also representatives of consumer, environmental, and minority associations; trade, industrial, agricultural, and labor organizations; public health, scientific, and professional societies; civic associations; public officials; and governmental and educational associations (see 40 CFR 25.3(a)). When one considers “the public” in this broad sense, public participation can mean any stakeholder activity carried out to increase public’s ability to understand and influence the RCRA permitting process.

Public participation increases the public’s ability to understand and influence the process.



**Figure 1 -- The Public Participation Triangle**

We can represent the relations between these stakeholders as a triangle with the regulators, the facility owner/operator, and the interested public each forming a corner. Out of each corner runs a

Public participation is a dialogue.

line that represents each group's communication with the other participants in the process.

In the best case, the stakeholders interact well, the lines of communication are strong between all the parties, and information flows in both directions around the triangle. This last point is important: *public participation is a dialogue*. You will read more about this dialogue later in this chapter.

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## Why Bother With Public Participation?

Public input can help the agency and the permittee make better technical decisions.

There are a number of reasons why agencies, facilities, and interest groups should provide for RCRA public participation and why citizens should make an effort to participate in RCRA decision-making. The first, and most obvious reason, is that facilities and permitting agencies are required to conduct public participation activities under the Act and its implementing regulations. Additional activities provided by facilities, agencies, and other organizations in the community can complement the required activities.

The second reason to bother with public participation is "good government." Permitting agencies are charged with making many controversial decisions, which should not be made by technical expertise alone. Public participation in controversial decision-making is an essential element of the good government philosophy. Community members have a right to be heard and to expect government agencies to be open and responsive.

In addition to providing good government, the third reason for encouraging public input is that it can help agencies reach better technical solutions and, thus, make better policy decisions. Public input can also help permittees or prospective applicants make better business and technical decisions. A community is most qualified to tell you about its own needs, and people who live with a facility every day will have the familiarity to provide useful insights. Experience has shown that RCRA actions often benefit from public participation. With public input, permitting decisions can gain a breadth and an appreciation of local circumstances that technical staff alone could not provide.

The fourth reason to bother with public participation is that RCRA actions are more likely to be accepted and supported by community members who can see that they have had an active role in shaping the decision. Showing community members that the regulatory agency or the facility is willing to address community concerns will establish the foundation for improved understanding and community involvement in the process, even if members of the community do not always agree with the outcome of that process. By promoting public participation, permitting agencies can reduce the potential for concern over less consequential risks and dedicate more

resources to addressing serious risks and issues. Many companies have also found that promoting early and meaningful public participation can save resources in the long run by avoiding delays and lawsuits based on public opposition.

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## What Makes A Successful Public Participation Program?

A successful public participation program is inclusive. It allows members of the community to have an active voice in the RCRA decision-making process. Agency staff, facility personnel, and citizens will be able to talk openly and frankly with one another about RCRA-related issues, and search for mutually-agreeable solutions to differences.

In addition to the paragraph above, a successful public participation program will meet the targets set out in the subsections that make up the remainder of this chapter. The principles in these following subsections are applicable to all public participation activities.

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### Dialogue and Feedback

*A vital and successful public participation program requires a dialogue, not a monologue.* In other words, information must flow in loops between any two stakeholder groups. For example, the regulators should not just release information to the facility owner/operator, who passes it to the community, who then contacts the regulators. The regulator should make the information available to everyone and ask for feedback. Each corner of the triangle must keep the two-way conversation going with the two remaining corners.

The address and phone number of a contact person should appear on fact sheets, notices and other outreach materials.

Open communication lines require participants to be accessible to the other stakeholders. An effective way to make your group accessible is to designate a **contact person** for every permitting activity. The contact person should make his or her address and phone number available to the other stakeholders by printing it on any fact sheets or other informational materials produced by the organization. The contact person will field all inquiries on the permitting activity at hand. Other people involved in the process will appreciate this single and accessible point of contact.

Without an active two-way communications process, no party will benefit from the "feedback loop" that public participation should provide. For example, if the regulatory agency sends out a fact sheet about an upcoming permit action, that fact sheet alone does not constitute public participation. Missing is the "feedback loop," or a way for the agency to hear from those who read the fact sheet. To get feedback, the agency might name a contact person in the fact sheet and encourage telephone or written comments, place calls to civic or neighborhood associations, visit a community group, or hold a meeting or workshop to discuss material in the fact sheet. Feedback loops enable the agency to monitor public interest or concern,

Public participation should encourage "feedback loops."

Members of the public have valid concerns and can often improve the quality of permits and agency decisions.

adjust public participation activities, and respond quickly and effectively to changing needs. The feedback loop is a useful tool for all stakeholders in the process.

Even if a feedback loop operates successfully, public participation cannot be successful if the permitting agency or the facility is reluctant or unable to consider changes to a proposed activity or permit action based on public comment or other input. While the decision-makers at the agency or the facility need not incorporate every change recommended by the public, they should give serious consideration to these suggestions and respond by explaining why they agree or disagree. Members of the public, like other stakeholders in the process, have valid concerns and can often contribute information and ideas that improve the quality of permits and agency decisions. Regulators and facility owner/operators should take special notice of this point and make available more opportunities for public participation.

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## Honesty and Openness

As we emphasized in the section above, participants in the RCRA permitting process should make all efforts to establish open paths of communication. Being honest and open is the best way to earn trust and credibility with the other stakeholders in the process. Making information available to the community and providing for community input can improve public perception of the permitting agency or the facility and lead to greater trust and credibility. Trust and credibility, in turn, can lead to better communication and cooperation and can focus the public debate on issues of environmental and economic impacts.

Establishing trust should be the cornerstone of your public participation activities. The following is a list of things to remember when establishing your credibility:

1. Remember the factors that are necessary for establishing trust -- consistency, competence, care, and honor.
2. Encourage meaningful involvement by other stakeholders.
3. Pay attention to process.
4. Explain the process and eliminate any mystery.
5. Be forthcoming with information and involve the public from the outset.
6. Focus on building trust as well as generating good data.
7. Follow up. Get back to people. Fulfill your obligations.
8. Make only promises that you can keep.
9. Provide information that meets people's needs.
10. Get the facts straight.
11. Coordinate within your organization.
12. Don't give mixed messages.
13. Listen to what other stakeholders are telling you.

14. Enlist the help of organizations that have credibility with communities.
15. Avoid secret meetings.

This list was adapted from the manual *Improving Dialogue With Communities* (New Jersey Department of Environmental Protection, 1988). This manual and a number of other sources produced by states, EPA, trade groups, and public interest groups are available for more information on trust and credibility factors.

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## A Commitment to the Public

Public officials have ethical obligations to the public that have a practical value in building the foundation necessary for successful communication:

- \* informing the public of the consequences of taking, or not taking, a proposed action;
- \* showing people how to participate so that interested people can;
- \* keeping the public informed about significant issues and proposed project changes;
- \* providing all segments of the public with equal access to information and to decision-makers;
- \* assuring that the public has the opportunity to understand official programs and proposed actions, and that the government fully considers the public's concerns; and
- \* seeking the full spectrum of opinion within the community, not only from the business community and other agencies, but also from neighborhood and community groups, environmental organizations, and interests with other points of view.

(Adapted from *Sites for our Solid Waste*, Environmental Protection Agency, EPA/530-SW-90-019, March 1990 and 40 CFR 25.3(c)).

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## An Informed and Active Citizenry

If you are a citizen who is interested in a permitting issue, the regulations provide a number of opportunities to access information and get involved. The following activities are some things citizens can do to be influential and well-informed participants.

- C Contact the permitting agency early. Identify the designated contact person for the project (the name should be on fact sheets and notices, or available by calling the agency).
- C Do background research by talking to local officials, contacting

research or industrial organizations, reading permitting agency material, and interacting with interested groups in the community.

- C Perform an assessment. Request background information from the permitting agency, local officials, and the facility ownership. Ask about day-to-day activities, the decision-making structure, and current policies and procedures; inquire about how the proposed project fits into larger political issues, local planning, and the facility's business plans. Request special information that may open up additional solutions, including pollution prevention approaches that may reduce or recycle the amount of waste that is managed in the facility.
- C Ask to have your name put on the facility mailing list for notices, fact sheets, and other documents distributed by the agency. Add your name to mailing lists maintained by involved environmental groups, public interest and civic organizations.
- C Tell the permitting agency, the facility owner/operator, and other involved groups what types of public participation activities will be most useful for you and your community. Inform them about the communication pathways in your area (e.g., what newspapers people read most, what radio stations are popular), the best locations for information repositories and meetings, and other information needs in the community (e.g., multilingual publications).
- C Submit written comments that are clear, concise, and well-documented. Remember that, by law, permitting agencies must consider all significant written comments submitted during a formal comment period.
- C Participate in public hearings and other meetings; provide oral testimony that supports your position. Remember that a public hearing is not required unless someone specifically requests one in writing.
- C If any material needs further explanation, if you need to clear up some details about the facility or the permitting process, or you would like to express specific concerns, then request an informational meeting with the permitting agency or the appropriate organization, such as the State's pollution prevention technical assistance office.
- C Follow the process closely. Watch for permitting agency decisions and review its responses to public comments. Be aware that you have an opportunity to appeal agency decisions.
- C Remember that your interest and input are important to the agency

and other concerned stakeholders.

- C To get tips about community organizing, information about how to participate in the regulatory process, or possible referrals to other involved groups in your area, you can contact the local League of Women Voters chapter. If you cannot contact a local chapter, or one does not exist, you can contact the state chapter. Phone numbers and addresses are provided in Appendix C.

EPA encourages citizens to consider these recommendations and follow them where applicable. At the same time, EPA recognizes that the best way to participate will be different in every situation. Citizens should contact other concerned persons, community organizations, and environmental groups to determine how citizens can best influence the permitting process.

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## Starting Early

A good public participation effort involves the public early in the process, encourages feedback, and addresses public concerns before initial decisions. The permitting agency, the facility owner/operator, and public interest organizations involved in the RCRA permitting process should make all reasonable efforts to provide for early stakeholder participation and open access to information. These efforts should include informing and seeking feedback from impacted communities before any significant actions. You should avoid the appearance of making decisions before public input. Even in cases where the facility and the agency meet privately in the early stages of the process, they should keep up the lines of communication with the public. One State agency has found success by making a meeting summary available to the public in an information repository whenever the regulators meet with facility staff. Such gestures can increase public faith while reassuring people that the agency will seek public input before making major permitting decisions.

EPA encourages public participation activities throughout the RCRA permitting process, especially when the activities foster an early, open dialogue with potentially affected parties. This can be particularly effective in exploring alternatives to treatment or that go beyond compliance, including for example, pollution prevention.

Early outreach and straightforward information can establish trust among the other stakeholders while reducing misinformation and rumors. Key contacts in the community should always know about planned activities that will be visible to members of the community, such as construction work or excavation related to facility expansions or corrective action. Interested people or groups in the community can use early participation activities to

make their concerns and suggestions known before major decisions take place. Since early participation activities may be the first word that people hear about a permitting activity, EPA is requiring expanded notice efforts before the facility submits a permit application (see “Notice of the Pre-Application Meeting” in Chapter 3). All stakeholders should use their knowledge of individual communities and local communication channels (e.g., contacts in the community, the media, civic and religious organizations) to foster effective information-sharing.

RCRA regulations require facilities and agencies to start public participation activities prior to application submittal, and continue them through the entire life of the permit. In essence, the facility owner or operator cannot put off public participation. EPA encourages permit applicants and permit holders to take early public participation activities seriously -- early activities can set the tone for the permitting process and even the entire life of the facility.

Start early and plan ahead: public interest in a facility can grow rapidly and unexpectedly.

Setting up an effective public participation program is a valuable use of time and resources. External pressure to start public participation work may not be present at the outset of a project, because members of the public may be unaware of the facility's operations and the regulatory agency's activities. However, public interest in a facility can grow rapidly and unexpectedly. Participants can best prepare for such situations by assessing their communities, taking proactive steps, and preparing for contingencies.

Getting the news out early gives people time to react. Other stakeholders can offer better information and suggestions when they have some time to think about it. For example, a facility can better incorporate community concerns into its permit application if it hears public concerns well before application submittal. Agencies and facilities owe the public the same courtesy, allowing citizens adequate time to review, evaluate, and comment on important information. By the same token, citizen participants should do their best to make their interests known early. If a citizen is invited to participate early, but decides not to and raises issues at the end of a process, then that citizen risks losing credibility with other stakeholders in the process.

Finally, extensive early outreach (as we point out in the following section) will make the permitting process or the corrective action smoother over the long run. Early outreach brings issues to the surface before stakeholders have invested great amounts of time and resources in a project; these issues are easier to address at an early stage. Moreover, early outreach minimizes the possibility that the public will feel like the agency or the facility is surprising them with an undesirable project. By providing early notice, agencies and facilities can avoid the public reactions that have “blind-sided” some projects in the past.



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## Assessing the Situation

Community assessments are an important step to take before preparing or revising a public participation strategy. Assessments are essential tools for facility owners who are applying for a RCRA permit (including interim status facilities), seeking a major permit modification, or undertaking significant corrective action. Permitting agencies should focus their assessments on communities where a major new facility is seeking a permit, or in other cases where permitting activity or corrective action has the potential to evoke public interest. Additionally, assessments may be appropriate at any stage during the life of a facility, especially in situations where the level of public interest seems to be changing.

Every community is different. What works in one community may not work in another.

Community assessments allow agencies, facility owners, and public interest groups to tailor regulatory requirements and additional activities to fit the needs of particular communities. Each community is different and has its own way of spreading information and getting people interested. Important institutions and groups will also vary from place to place, as will socioeconomic status, culture and traditions, political and religious activity, and values. The facility owner, public interest groups, and the agency should make all reasonable efforts to learn the facts about the affected community. These data are essential to choosing public participation activities that will be useful and meaningful for the community.

### *Determining the Level of Public Interest*

Some permitting activities do not generate much interest or concern among community members. Other activities will evoke strong interest and will require a much greater public participation effort. Although there are no hard and fast rules that make a facility a low- or high-profile facility, the level of interest will depend on a number of factors, such as (1) the type of RCRA action and its implications for public health and welfare; (2) the current relationships among the community, the facility, the regulatory agency or agencies, and other groups; and (3) the larger context in which the RCRA action is taking place, including the political situation, economics, and important community issues. Exhibit 2-1 (at the end of this Chapter) provides a guide for determining a facility's potential to be low-, medium-, or high-interest to the public.

Public participation activities should change over time to suit the level of interest in a facility.

While these guidelines can be useful as an early planning tool to predict public interest, agencies and facility owners should be flexible and prepared for rapid changes in the level of public interest in a permitting activity. The apparent level of public interest does not always reflect the potential for public interest. In some cases, the regulatory minimum will be sufficient. In other cases, the agency or facility should be prepared to provide additional input and information, as needed. Public participation activities should correspond to the level of community interest as it changes over

time.

Public interest, environmental, and civic organizations also assess their communities to determine the amount of interest in a permitting activity. These organizations can take steps to encourage public participation in the permitting process. Door-to-door canvassing, public information sessions, flyers, fact sheets, neighborhood bulletins, and mailings are all methods of sharing information with the public and encouraging citizen involvement. Organizations that are attempting to encourage public participation may find the rest of this section useful. In addition, more information for such groups is available by contacting the League of Women Voters (see Appendix C for contacts).

### ***Community Assessment Methods***

Facility owners should gather background information about the community before seeking a permit or a permit modification. Regulators should find out about community concerns at the outset of a major project or any project that seems likely to raise significant public interest. Public interest groups may want to perform similar background work. As emphasized in the previous section, understanding a community is essential to creating a successful public participation effort.

The facility owner is responsible for collecting his or her own information about a community before initiating any permitting activity (e.g., before requesting a permit modification or applying for a permit). Permitting agencies, on the other hand, should dedicate their resources, using their own judgment, to learning about concerns in the community and assessing communities where there is a high level of interest in a permitting activity. In some cases, permitting agencies and facility owners have cooperated to do joint outreach activities, and believe that the agency presence has made members of the community more comfortable during interviews or other activities. EPA does not recommend such cooperation as a rule (because, for example, other stakeholders could perceive this as “taking sides”). Permitting agencies should use their discretion and maintain the agency’s proper role during any such activities.

EPA recommends the following steps for gathering information about the community. Although facility owners may want to follow these steps before every major permitting activity (e.g., applying for a permit or a major modification), permitting agencies should focus on major activities at facilities that have the potential to raise significant public interest :

- C     Reviewing news clippings and other information that indicates how the community is reacting to the facility or the permitting activity.

- C Talking to colleagues or anyone who has experience working with members of the particular community.
- C Contacting companies, universities, local governments, civic groups, or public interest organizations that already have experience in the community. These groups may be able to provide useful information about community concerns, demographics, or reactions to other industry in the area. They may be able to point you towards other existing sources of community information.

If it seems like there is a low level of interest in the facility at this point, and things are not likely to change, the agency and the facility owner can begin planning the required public participation activities.

If, however, the facility shows indications of being a moderate- to high-interest level facility, a more detailed analysis of the community might be necessary, and additional public participation activities planned.

EPA recommends community interviews when there is a high level of public interest.

- C To get a fuller picture, staff from the agency or the facility should consider contacting community leaders and representatives of major community groups to talk about the facility and the planned RCRA action. These interviews should represent a fair cross-section of viewpoints in the community. The community representatives may have a feel for how much community interest there is in a permitting activity. They also may be able to provide advice on how to handle the situation.
- C If there are indications of likely high interest from the outset (e.g., a facility that is likely to be controversial is seeking a permit), the agency or the facility owner should consider conducting a broad range of **community interviews** with as many individuals as possible, including the facility's immediate neighbors, representatives from agencies that will participate in the RCRA action, community organizations, and individuals who have expressed interest in the facility (e.g., people on the agency's mailing list, newspaper reporters, local officials). A detailed discussion of how to conduct **community interviews** is provided in Chapter 5.
- C After collecting the necessary information, the agency or the facility may wish to prepare a brief summary of major community concerns and issues (no more than five pages). The summary can be integrated into the public participation plan document or used as the basis for developing a "Question and Answer"-type **fact sheet** to distribute back to the community. See Chapter 5 for additional information on these activities.

Exhibit 2-2 at the end of this Chapter summarizes the steps to take in

determining the level of public interest in facilities and gathering background information.

### ***Targeting Public Participation in Communities***

The scope of the affected community will vary from facility to facility.

This initial assessment should provide a good idea about the scope and makeup of the "affected community." Pinpointing the affected community can be a difficult process; everyone has a different definition. EPA will not try to define the affected community here because its composition will vary with the particular characteristics of each facility and its surrounding community. *In some cases*, however, it may be appropriate to target a segment of the population that is broader than the "affected community." For instance, the appropriate target for early public notices and some other activities may go beyond people who are directly affected, to include citizens who are potentially interested or concerned about the facility. EPA recognizes that the distinction between "affected" and "concerned" or "interested" will not be completely clear in all cases. Permitting agencies should use their best judgment.

EPA realizes that resources will limit the breadth of any public participation program and that focus is necessary. It is clear that some people will have a more direct interest than others in a particular permitting activity. Given practical resource limitations, public participation activities should focus first on people with a more direct interest in a RCRA facility, while also realizing that "direct interest" is not always determined by physical proximity to a facility alone. It is impossible to point out all people who have a direct interest, but, as a general guideline, people with the most direct interests will live in the general vicinity of the facility, or have the potential to be affected by releases to groundwater, air, surface water or the local environment (e.g., through game, livestock, or agriculture or damage to natural areas). Direct interests may also include people who live on or near roads that will accept increased traffic of hazardous waste-carrying vehicles. EPA acknowledges that people residing a significant distance from the facility may have legitimate and important concerns, but EPA thinks it is reasonable to focus limited public participation resources on communities with direct interests. See the section on "The Mailing List" in Chapter 3 for a list of organizations that you should consider when thinking about the interested or affected community.

### ***The Citizen's Role***

Citizens in the community may want to assess the permitting situation, the agency (or agencies) involved, and the facility owner/operator. As we pointed out in the section above, citizens can get background on a permitting issue by talking to local officials, contacting research or industrial organizations, reading permitting agency material, and interacting

with interested groups in the community. Citizens may also want to find out about day-to-day activities at the facility or the agency, the decision-making structures they use, and their current policies and procedures. Citizens may want to get more information on the owner's/operator's involvement with other facilities or other activities. The contact persons for the facility and the agency are also good to know. Citizens can also talk to local officials, the agency, or the facility to find out how the proposed project fits into larger political issues, what local planning issues are involved, and what the facility's business plans are.

Individual community members can take part in the assessment process by providing input to other stakeholders through interviews, focus groups, or other methods used in community assessments (also see the section on "An Informed and Active Citizenry" earlier in this Chapter). This guidance manual gives an overview of the RCRA permitting process which individual community members may find helpful. The Appendices at the end of this manual provides other resources and contacts (the RCRA Hotline, agency phone numbers, and League of Women Voters' contacts) that citizens can access. EPA is also compiling a reference list of public participation and risk communication literature. The list is available through either the RCRA Information Center, in Docket Number F-95-PPCF-FFFFF, or through the RCRA Hotline (see Appendix A for appropriate telephone numbers). Members of the public can find out about permit activities in their area by contacting the permitting agency, talking to environmental groups or public interest organizations, reading state, federal, and private environmental publications in the library, looking for zoning signs or other announcements, attending public meetings and hearings, watching the legal notice section of the newspaper or checking display advertisements, listening to local talk shows, or keeping up with local events through town bulletins, associations, or council meetings.

Valuable public interaction can take place outside of the formal permitting process.

In addition, members of the community can contact the permitting agency or the facility -- outside of any formal activity -- to give early input and to share their concerns. Community members should suggest public participation activities, meeting locations, or means of communication that will work well in their community. This sort of informal communication, via letter or interview, can be very helpful, especially in terms of establishing a public participation plan (see Chapter 5 for a description of public participation plans). EPA also recognizes that valuable public interaction takes place outside of the formal permitting process. Citizens may choose to contact other groups in the community that have an interest in the permitting activity. Environmental, public interest, and civic organizations often play a role in the RCRA permitting process. These groups can provide interested citizens the opportunity to participate in efforts to influence the permitting process through collective action.

Alternatively, citizens may see fit to create new organizations to discuss issues related to the permitting process or to provide input into the process.

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## Planning for Participation

A good public participation program avoids misunderstandings by anticipating the needs of the participants. It provides activities and informational materials that meet the needs of, and communicate clearly to, specific community members and groups. The public participation plan is the agency's schedule and strategy for public participation during the initial permitting process, significant corrective actions, and other permitting activities at facilities receiving high levels of public interest.

After assessing the situation, the agency should have an approximate idea of how interested the public is in the facility. Based on the information from the community assessment, the agency should draft a plan addressing public participation activities throughout the prospective permitting process and the life of the facility. For permitting activities and corrective actions that do not raise a high level of public interest in the community, the public participation plan will be a simple document, outlining the regulatory requirements. Major permitting activities and other high-interest activities will require a more detailed plan with participation opportunities that go beyond the requirements. Agency staff should keep in mind that community interest in a particular facility can change at any time; good plans will prepare for contingencies.

EPA recognizes that permitting agencies do not always have the resources they need to perform all the public participation activities they would like to perform. Agency staff must consider resources in all stages of the process, but particularly when developing a public participation plan. To make fewer resources go further, agencies should consider working with community groups, public interest organizations, and facility owners/operators to plan public participation events. Some relatively inexpensive activities can be very effective. More information on making use of additional resources is available in Appendix M. Information on the resources needed to perform specific public participation activities is available in Chapter 5.

The plan should create a structure for information to flow both to and from the public.

The goal of the public participation activities in the plan is to meet the specific needs of members of the community by creating a structure for information to flow both to and from the public. Anyone who plans public participation activities should strive for useful and timely exchange of information with the public. Again, EPA strongly encourages anyone conducting public participation activities to solicit public input on the types of communication and outreach activities that will work best in each

community. The agency, facility, civic and public interest groups should coordinate their public participation efforts, emphasizing two-way information exchange and avoiding unnecessary duplication in their activities.

To identify activities for the public participation program, the agency should go through the following steps:

1. list the major community issues and concerns;
2. list the community characteristics that will have a bearing on how you address these issues; and
3. list the activities that will address the community's concerns during the permitting process and, if applicable, corrective action.

Once the agency has outlined activities for the facility at hand, it should put together a strategy for implementing the activities. In general, the following are the areas of responsibility for public participation that the agency should consider:

- C **Interacting with the media, especially on high-profile facilities.** If there is a high degree of interest in the facility, it will be important to have a media contact person who can get information out quickly, accurately, and consistently. The assistance of a public affairs office is often necessary (where applicable).
- C **Interacting with elected officials.** For facilities receiving a moderate to high level of interest, it is often beneficial to work with elected officials to provide them with information they need to answer their constituents' questions. Put together a team of people who can fill the information needs of public officials. This team should include senior people who can answer policy questions when necessary.
- C **Answering telephone and written inquiries.** It is important to follow up on all requests for information that you receive from stakeholders. Designate one person to be responsible for putting together the answers to questions in a form that is understandable to the public. This "contact person" should be named in all fact sheets and public notices. Remember the importance of two-way communication and the public participation triangle.
- C **Coordinating public participation with other stakeholders.** It is crucial that all the people who are working on public participation be aware of what activities are being planned for the facility and any other facilities in the area, so that activities can complement each

other whenever possible. At the least, try to avoid conflicts between competing activities. Be sensitive to major events (e.g., celebrations, other meetings, religious revivals, fundraisers, elections) and important dates (e.g., local holidays, graduations) in the community.

- C **Maintaining the mailing list and information repositories.** A mailing list is required under RCRA and the agency should update it to include new people or organizations who have expressed an interest in the facility. The facility and other organizations should refer to the agency any requests to be on the official facility mailing list. If public information repositories are established for the facility, they should be indexed and updated at least quarterly, or as required by the permitting agency. The facility may want to obtain a copy of the mailing list to use for distributing information.
- C **Planning and conducting public meetings.** Set-up and coordination are critical to the success of public meetings. Public participation staff will need to choose a location for meetings based on public input and the need for comfort and accessibility. The public participation coordinator will need to schedule speakers, plan the agenda, and provide a mediator (if necessary) at the meeting. Chapter 5 provides more detail on public meetings, hearings, workshops, etc.
- C **Handling production/distribution/placement of information, including fact sheets, public notices, news releases, meeting handouts and overheads, etc.** Much of your public participation time will be spent developing and producing information for interested stakeholders. Permitting agency staff may want to refer to Appendix M for a list of resources that can ease fact sheet and information production. Sometimes you may need to refer stakeholders to other agencies that have information readily available, such as the State pollution prevention technical assistance office, which often have fact sheets and technical experts available. A list of pollution prevention contacts is included in Appendix S.

Public participation activities should coincide with major steps in the permitting process.

The next step is to figure out a schedule of public participation activities. This schedule should include activities that are required by EPA regulations. In general, the timing of additional public participation activities should correspond to the completion of major steps in the technical process (e.g., application submittal, draft permit issuance, completion of the RFI). These are the times when members of the public may have new questions or concerns about the proposed action or the facility in light of new information, especially during corrective action. The regulators and the facility owner/operator should also be prepared to notify the public when any major activity will be taking place at the facility (e.g., start of construction for corrective action) or has taken place (e.g.,



emergency response to releases).

Permitting agencies should take the lead in writing and revising public participation plans, while allowing for input from other stakeholders and coordinating with activities held by the facility, public interest groups, and community organizations. The agency may want to involve other stakeholders in a group process to form a comprehensive plan. Depending on the amount of public interest in a facility, the plan could be an informal one- or two-page document or a formal public involvement plan that will be available to members of the community for comment. At a minimum, the plan should include a list of the specific public participation activities for the facility and a schedule for when they will occur. We encourage agencies to make these plans -- formal and informal -- available to the public.

Developing a written public participation plan will help staff account for all the necessary steps in the permitting or corrective action process. A formal plan will also let the public know what type of activities to expect during the process. EPA recommends that a formal plan contain the following sections:

- executive summary;
- introduction/overview;
- facility history;
- the RCRA action taking place;
- summary of community interviews, outlining concerns;
- a description of any early consultation (e.g., interviews with group leaders) that led to development of the plan;
- a list of the major issues likely to emerge during the process;
- an estimation of the level of public interest likely to be generated by the decision under consideration;
- public participation activities and schedule;
- a list of the agencies, groups, and key individuals most likely to be interested in the process;
- a list of key contacts; and
- information on meeting and repository locations, where applicable.

Communities can provide valuable advice on what public participation activities will work best.

EPA encourages permitting agencies to seek public input on the plans; final plans should be available for public review. This sort of input is important for getting the public involved early in the process. In addition, communities can provide useful advice on what channels of communication will work best in the area and what sort of activities will provide the most effective participation. Communities can provide practical solutions that improve communication and may even save resources. For example, in one community where rumors spread easily, citizens suggested that the agency put status reports on voicemail so that people could call in for

regular updates.

There are numerous ways that the community can contribute during the planning stage. Citizens can decide how interested they are in a particular activity by discussing issues with other stakeholders, accessing relevant documents, or calling hotlines or other experts. Those who would like to participate in the formal process can use this time to raise questions or develop their ideas. Some citizens may want to submit comments to the agency on the public participation plan. Moreover, EPA encourages interested citizens to meet together to discuss the potential impact of RCRA actions on their communities. Citizen groups may want to invite experts from the facility, the permitting agency, engineers, environmental contractors, scientists, health experts, and attorneys to speak at their meetings.

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## Understanding and Interaction Between Stakeholders

While each stakeholder shares the responsibility of providing open and two-way communication, the roles and responsibilities of the different stakeholders differ substantially. Participants in the RCRA permitting process should acknowledge these differences and account for them as they approach the process. We encourage participants to do their best to understand the interests and concerns of the other participants by following the principles below:

- \* Strive to respect other stakeholders and their opinions. Avoid personal attacks.
- \* Understand that people have different levels of understanding of RCRA. Not everyone is an expert, but everyone should have the chance to know all the facts.
- \* Realize that decisions made during the permitting process can have profound economic and social impacts. These decisions are very real and important; people will live and work with them every day.
- \* Acknowledge that statutory and regulatory requirements limit what can happen during the permitting process. Remember that everyone - citizens, regulators, facility owners/operators, and public interest workers -- has resource and time constraints
- \* Recognize that people have concerns that go beyond the scientific or technical details. These concerns deserve respect.
- \* Build your credibility by being fair, open, and respectful.
- \* Try to understand the values and interests of other stakeholders before jumping to conclusions.

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## Promoting Environmental Justice

Environmental justice refers to the fair distribution of environmental risks across socioeconomic and racial groups. Some groups and individuals associated with environmental justice issues have raised the concern that EPA and some State environmental agencies do not provide equal protection under the nation's environmental laws. With regard to the RCRA permitting program, most of the concern surrounds the potential additional risk that hazardous waste facilities may pose when located near low-income or minority communities that already face an environmental burden from multiple sources.

On February 11, 1994, the President issued Executive Order 12898, directing federal agencies to identify and address the environmental concerns and issues of minority and low-income communities. EPA is committed to the principles in this Executive Order. Furthermore, in an effort to make environmental justice an integral part of the way we do business, the Agency issued a policy directive, in September 1994 (OSWER 9200.3-17), that requires all future OSWER policy and guidance documents to consider environmental justice issues.

EPA is committed to equal protection in the implementation and enforcement of the nation's environmental laws. Moreover, providing environmental justice for all U.S. residents is a major priority for EPA.

In the area of public participation, the Agency has made changes that will empower communities and potentially increase their voice in the permitting process. In the "RCRA Expanded Public Participation" rule (60 FR 63417-34, December 11, 1995), EPA created more opportunity for public involvement in the permitting process and increased access to permitting information. The rule gives all communities a greater voice in decision making and a clear opportunity to participate in permit decisions early in the process.

New EPA rules will empower communities by giving them a greater voice in the permitting process.

EPA strongly encourages facilities and permitting agencies to make all reasonable efforts to ensure that all segments of the population have an equal opportunity to participate in the permitting process and have equal access to information in the process. These efforts may include, but are not limited to:

- C **Providing interpreters, if needed, for public meetings.** Communicating with the community in its language is essential for the two-way information flow required to ensure the public an equitable voice in RCRA public participation activities.
- C **Providing multilingual fact sheets and other information.** Making sure that the materials presented to the public are written clearly in

the community's primary language.

- C **Tailoring your public participation program to the specific needs of the community.** Developing a program that specifically addresses the community's needs will demonstrate to community members your interest in achieving environmental equity and fostering a sense of cooperation.
- C **Identifying internal channels of communication that the community relies upon for its information, especially those channels that reach the community in its own language.** Examples of these "channels" are a particular radio show or station, a local television station, a non-English newspaper, or even influential religious leaders. By identifying and making use of these valuable communication channels, you can be sure that the information you want to publicize reaches its target audience.
- C **Encouraging the formation of a citizens advisory group to serve as the voice of the community.** Such groups can provide meaningful participation and empowerment for the affected community (see Chapter 5 for more detail).

(Additional steps you can take to promote environmental justice are available in Appendix D).

Although EPA has taken steps on a national level to address environmental justice issues, many of these issues can be addressed more effectively at a local level and on a site-specific basis. Local agencies and leaders have an important role to play in addressing environmental justice concerns.

The RCRA permitting process is intended to ensure that facilities are operated in a manner that is protective of human health and the environment. Environmental justice concerns are often broader in scope, going beyond the technical design and operation of the facility to include socio-economic, ethnic, and racial factors for the surrounding community. Within the context of public participation in RCRA permitting, the best way to address environmental justice concerns is through active communication. Keeping open lines of communication among permitting agencies, facility owners, and community members is a good way to promote awareness and understanding of the permitting process, the facility operations, and the community's concerns. Providing frequent opportunities for community participation empowers the community to play an important role throughout the process.

Permitting agencies should be forthright in explaining the scope and limitations of permitting regulations to the community. Agencies should

also make sure that citizens understand their rights within the permitting process (e.g., submitting comments, requesting a public hearing, appealing permit decisions). Facility owners should strive to establish good relations with the community and routinely interact with community members and organizations, seeking input and feedback when making significant decisions. Communities should gather information about other rights, outside of the permitting process, such as those afforded under Title VI of the Civil Rights Act.

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## Supporting Community-Based Environmental Protection

In its May, 1995 Action Plan, EPA's Office of Solid Waste and Emergency Response (OSWER) endorses community-based environmental protection (CBEP). CBEP is a method of solving environmental problems in the context of the community in which they occur. OSWER's plan points to CBEP as a method that "brings the government closer to the people it is meant to serve." It also heralds CBEP as "a new way of accomplishing traditional tasks in a more effective, more responsive manner."

Stakeholder involvement is one of the keys to CBEP. OSWER's plan points to CBEP efforts as ones that "must empower and equip the community to participate in environmental decisions, taking into account not only the human but also the ecological and socioeconomic health of a place." Thus, the involvement and cooperation of the community, facility owners and operators, and agency personnel in the permitting process will fuel CBEP efforts. Moreover, increased access to information and opportunities for participation in the permitting process (like those in the RCRA Expanded Public Participation Rule ) will empower communities and enable them to practice CBEP.

We encourage permitting agencies, facility owners and operators, public interest groups, and members of the community to carry out the spirit of this manual. As we emphasized in the section on "Promoting Environmental Justice" above, the best solutions to many environmental challenges are available at the local community level, and no problem can be solved without input from local stakeholders. Only by cooperating, communicating, and providing feedback and equal opportunities can community-based programs reach their potential for solving environmental problems.

The best solutions to many environmental challenges are available at the community level.

Permitting agencies can take a lead role in promoting a CBEP approach by discussing RCRA issues in coordination with other environmental concerns in a given area. Program distinctions between water, air, waste, and toxics are less important to stakeholders outside of the agency. Agency staff should be prepared to address RCRA concerns in the context of air and water issues that may reach beyond a particular facility. Many companies are particularly interested in finding opportunities to reduce process wastes

through pollution prevention and recycling that affect air, water, and waste permit requirements. Several states are embarking on “whole facility” approaches to permitting to take advantage of this approach. Permitting agencies should consider using **fact sheets** and **availability sessions** to explain RCRA’s relationship to other programs. Combining public meetings across program lines could also make the entire environmental picture more clear to stakeholders.

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## Re-evaluating and Adjusting the Public Participation Program

As RCRA activity increases at a facility and becomes more visible, public interest in a site can increase dramatically. Interest can also fade away without warning. Participants in the permitting process should anticipate and plan for sudden changes in the level of interest in a facility. Periodic communication with key community contacts can help to anticipate changes in the attitude or interest of other stakeholders. All participants should make sure to keep their key contacts informed of all planned activities -- especially activities that are highly visible and tend to raise a lot of interest, such as construction work or excavation related to cleanups.

In addition, at facilities that are receiving high levels of public interest, the agency or the facility may want to conduct follow-up community interviews at a key point (or points) in the decision-making process. These interviews will help predict major shifts in public interest or concern. The agency should also encourage members of the community to submit comments throughout the process and especially during formal comment periods. Agency staff should make clear to the public (e.g., through fact sheets) how the comment and response process works.

Permitting agencies, facility owners, and other involved organizations should evaluate the effectiveness of public participation programs regularly through the process. The permitting process is complex and the best way to measure the success of a public participation plan is not always clear. The following are indicators that a public participation program is working:

- stakeholders are not asking the same questions over and over again;
- stakeholders are not raising concerns about a lack of information;
- the appropriate contact person is handling inquiries in a timely manner;
- most of the public participation time is not devoted to correcting breakdowns in the information-sharing triangle (see above) between the community, the agency, and the facility;
- the channels of communication are well-defined and open;
- interested parties are providing informed comments on the project; and

The best way to evaluate the success of a public participation program is to ask other stakeholders what is and isn't working.

- members of the public are bringing their concerns to stakeholders that are actively involved in the process, rather than taking them directly to the press or elected officials.
- Creative, more flexible, technical solutions, including pollution prevention solutions, are being explored.

If the program is not achieving these objectives, then the agency, facility, and involved groups need to assess their techniques and determine what changes will improve the program. If members of the community are dissatisfied, then public participation activities may not be reaching the right target audiences. The community may not have adequate access to information or may not be understanding it because it is too complex. In some cases, the public may need more detailed information. The community may feel uncomfortable in relations with the facility or the agency, or the agency or the facility may be uncomfortable relating to the community. The facility may not understand its role in the process in relation to the agency's role. All of these difficulties can reduce the effectiveness of the public participation program. The best way to find out what is going wrong is to talk to the community and the other stakeholders. Ask them what is working and where improvements are needed. Modify public participation activities based on their suggestions and your own time and resource limitations.

Members of the community should have a chance to evaluate the public participation activities that the agency, the facility, and public interest or other groups are employing. EPA encourages participants to solicit feedback from the public, going beyond the regulatory requirements where necessary. **Surveys, interviews, or informal meetings** are all effective ways to gather feedback. In addition, the agency, facility, and involved groups should explain the permitting process to the community, update the community on significant activities, and provide information that community members can access and understand. If these standards are not being met, then the community should communicate its concerns to the appropriate contact person. Citizen input is the feedback that makes two-way communication work. All involved organizations should create a means for citizens to let them know if public participation activities are not working (e.g., use of a contact person, suggestion boxes, hotlines, surveys, etc.). Once these organizations know where the breakdown is occurring, they can adjust their programs to address community concerns.

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## Chapter Summary

Public participation, defined broadly, is any stakeholder activity carried out to increase public input or understanding of the RCRA permitting process.

The public participation triangle represents the communication between the public, regulators, and the facility.

Public participation is based on a dialogue.

Public participation is required, it can lead to better technical decisions, and it can engender public support for a project.

A successful public participation program allows members of the community to have an active voice in the process and to have free access to important information. Participants in a successful program will also pursue the following benchmarks:

- Creating a dialogue that provides for feedback;
- Establishing trust and credibility in the community through honesty and openness;
- Fostering an informed and active citizenry that follows the process, gives input to other stakeholders, and discusses issues with other concerned groups and people;
- Ensuring that public officials meet their obligations to the public;
- Involving the public early in the process, receiving feedback, and addressing public concerns before making decisions;
- Assessing the community to find out from citizens what types of activities would best allow them to participate;
- Planning your public participation activities ahead of time, allowing flexibility for changing interest levels in the community;
- Understanding and respecting the values and limitations of other stakeholders;
- Taking steps, such as issuing multilingual fact sheets or encouraging the formation of citizen advisory groups, to ensure that all segments of the interested community have an equal opportunity to receive information and participate in the process;
- Supporting efforts to respond to environmental challenges on a community level; and
- Periodically evaluating the effectiveness of your program in the community and adjusting as community attitudes and interest levels evolve.



## Exhibit 2-1

### Determining the Likely Level of Public Interest in a RCRA Facility

Level of Interest	Type of RCRA Action	Community Members' Relationships With Facility/Regulatory Agency	Larger Context
Low Level of Public Interest in a Facility	<ul style="list-style-type: none"> <li>C The RCRA activity is unlikely to be controversial (e.g., a routine modification)</li> <li>C There is no contamination at the facility that could come into direct contact with the public</li> </ul>	<ul style="list-style-type: none"> <li>C People do not live near the facility</li> <li>C There is a history of good relations between the facility and members of the community</li> <li>C Members of the community have expressed confidence in the regulatory agency and/or the facility</li> </ul>	<ul style="list-style-type: none"> <li>C The facility receives very little media attention and is not a political issue</li> <li>C Community members have not shown any past interest in hazardous waste issues</li> </ul>
Moderate Level of Public Interest in a Facility	<ul style="list-style-type: none"> <li>C The RCRA action may involve activities, such as §3008(h) corrective action activities, that contribute to a public perception that the facility is not operating safely</li> <li>C Examples may include permits for storage and on-site activities and routine corrective actions.</li> <li>C Highly toxic and/or carcinogenic wastes may be involved (e.g., dioxins)</li> </ul>	<ul style="list-style-type: none"> <li>C A relatively large number of people live near the facility</li> <li>C There is a history of mediocre relations between the facility and members of the community</li> <li>C The facility is important to the community economically, and the action may affect facility operations</li> <li>C Members of the community have had little or poor contact with the regulatory agency</li> <li>C Local elected officials have expressed concern about the facility</li> </ul>	<ul style="list-style-type: none"> <li>C Community members have shown concern about hazardous waste issues in the past</li> <li>C The facility receives some media attention and there are organized environmental groups interested in the action</li> <li>C There are other RCRA facilities or CERCLA sites in the area that have raised interest or concern</li> </ul>
High Level of Public Interest in a Facility	<ul style="list-style-type: none"> <li>C The RCRA action includes a controversial technology or is high-profile for other reasons (e.g., media attention)</li> <li>C Highly toxic and/or highly carcinogenic wastes are involved (e.g., dioxins)</li> <li>C There is potential for release of hazardous substances or constituents that poses potential harm to the community and the environment</li> <li>C There is direct or potential community contact with contamination from the facility (e.g., contaminated drinking water wells or recreation lake)</li> </ul>	<ul style="list-style-type: none"> <li>C The nearest residential population is within a one-mile radius</li> <li>C A relatively large number of people live near the facility</li> <li>C There is a history of poor relations between the facility and the community</li> <li>C The facility has violated regulations and community members have little confidence in the regulatory agency to prevent future violations</li> <li>C There is organized community opposition to the facility's hazardous waste management practices or to the action</li> <li>C Outside groups, such as national environmental organizations, or state or federal elected officials have expressed concern about the facility or action</li> <li>C The economy of the area is tied to the facility's operations</li> </ul>	<ul style="list-style-type: none"> <li>C Community members have shown concern about hazardous waste issues in the past</li> <li>C Facility activities are an issue covered widely in the media</li> <li>C There is interest in the facility as a political issue, at the local, state, or federal level (e.g., statewide and/or national environmental groups are interested in the regulatory action)</li> <li>C There are other issues of importance to members of the community that could affect the RCRA action (e.g., concern over a cancer cluster near an area where a facility is applying for a permit to operate an incinerator)</li> <li>C There are other RCRA facilities or CERCLA sites nearby that have been controversial</li> </ul>

## Exhibit 2-2

### Steps in Evaluating Facilities and Gathering Information

#### ***Step 1: Review the RCRA Action***

Is it:

- ☐ Likely to be a controversial action (e.g., permitting a commercial waste management facility)
- ☐ Unlikely to be a controversial action

#### ***Step 2: Talk to colleagues who have worked in this community about their interactions with members of the public***

- ☐ Has there been a large degree of public interest or concern about other projects?
- ☐ Have members of the public shown confidence in the regulatory agency?

#### ***Step 3: Review regulatory agency (or any other) files on the facility***

Are there:

- ☐ A lot of inquiries from members of the public  
Major concern(s) \_\_\_\_\_  
Any organized groups? \_\_\_\_\_
- ☐ Few inquiries from members of the public
- ☐ Clippings from newspapers or other media coverage

#### ***Step 4: Formulate your preliminary impression of the community based on the above information***

#### ***Step 5: Talk with several key community leaders to confirm your impression***

People to interview:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

#### ***Step 6: Determine the anticipated level of community interest based on the above information***

- ☐ Low (go to Step 7)
- ☐ Moderate (next step: conduct additional community interviews with one member of each community subgroup)
- ☐ High (next step: conduct a full set of community assessment interviews)

#### ***Step 7: Write a brief summary of any major community concerns/issues***